

### **REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-6, 8-10 and 12 are currently being prosecuted. The Examiner is respectfully requested to reconsider her rejections in view of the amendments and remarks as set forth below.

#### **Specification**

The Examiner objected to the specification under 35 U.S.C. 132 because the amendment to the specification filed on July 27, 2006 introduces new matter. The Examiner identifies the two areas as the lines on page 2 between lines 13 and 14 and on page 25 line 24.

First, in regard to the changes on page 2, applicants disagree that this constitutes new matter. The entirety of this new paragraph relates to the features of four unrelated US patents. This is only describing the prior art. Since it does not describe any part of the present invention, it is not understood how this can constitute new matter. The Examiner is requested to reconsider this part of the rejection. If the Examiner persists in this part of the rejection, she is requested to explain how a description of prior art material can be considered new matter.

In regard to the added language on page 25, applicants have removed one phrase which appears to be the only possible language which could be considered new matter. The increase of the moment of inertia without increasing the thickness of the shell was described on page 5 lines 9 to 11. Language relating to the materials with higher mechanical properties is described on page 4 lines 21 to 26. Since this part of the paragraph only relates to the language provided in

the original application, it is considered not be new matter. Applicants have removed the only language which could relate to the material not found in the original application, namely the phrase "a different pattern then". Accordingly, applicants submit that this rejection is overcome.

**Rejection under 35 U.S.C. 103**

Claims 1-10 stand rejected under 35 U.S.C. 103 as being obvious over Wittman (US Pat. No. 5,667,737) in view of Sugiyama (US Pat. No. 4,798,010). This rejection is respectfully traversed.

The Examiner states that Wittman shows an article of footwear with a shell and a leg piece having a composite structure forming two layers with different mechanical properties. The Examiner admits that this reference does not teach the shape of the interconnected overlapping transition areas as having ribs to form a truss-like pattern. The Examiner relies on Sugiyama to show a footwear assembly having hard and soft elastic layers with intersecting complimentary ribs. The Examiner feels that one of ordinary skill in the art could shape the transition areas of Wittman with ribs as is taught by Sugiyama.

By way of the present amendment, Applicants have amended claim 1 to add the limitation that the outer layer is made of a clear material. This limitation was previously found in claim 6. In regard to claim 6, the Examiner has referred to column 3, lines 44-58 of Wittman. While this section indicates that different compositions of synthetic resin materials are different in color, there is no statement that the outer material is made of a clear material. The presence of the clear material provides a very striking appearance and allows the inner layer to be seen

therethrough. This is not the case in the Wittman device which only indicates that the material can differ in color. Accordingly, Applicants submit that claim 1 as presently amended is not obvious over Wittman in view of Sugiyama.

Furthermore, Applicants submit that Wittman does not show protruding elements in the layer made with higher mechanical properties and which are covered by the other layer. Wittman does not show such protrusions nor does Sugiyama have such protrusions between the layers. Instead, Sugiyama only shows wave-like portions on the sole of the shoe. Since the preamble of claim 1 specifically describes that the composite structure is in selected locations other than the sole, this feature is not applicable to the present claims. Accordingly, Applicants submit that this claim is additionally allowable.

#### **New Claim 12**

By way of the present amendment, Applicants have added claim 12 which is based on the previous claim 1.

Applicant submits that the present amended claims are not obvious over this combination of references. First, claim 12 has been added to make it clear that the composite structure is in the shell which is separate from the sole of the footwear. At the same time, both the inner and outer surfaces of the shell are uniform and substantially smooth. The Wittman reference shows the outer surfaces having different types of resin materials. However, this references does not show other features of the invention, as admitted by the Examiner. However, the Sugiyama reference shows two layers having a wavy configuration in order to soften the shocks applied to

the user of the sports shoe. It does not provide ribs for stiffening and does not provide uniform smooth surfaces of the shell. Applicant submits that even if these two references are combined they still do not teach the present claimed invention since the individual references do not teach the same features. Accordingly, Applicants submit that claim 12 is allowable.

### **Dependent Claims**

Claims 2-6 and 8-10 depend from claim 1 and as such are also considered to be allowable. In addition, each of these claims recite other features that make them additionally allowable. For example, claim 3 describes the stiffening ribs which increase the moment of inertia and that the ribs are integral and project from the surface with no increase in thickness. Applicants submit that this claim is likewise not seen in the references. Furthermore, Applicants submit that the remaining references likewise show other features that make them additionally allowable.

### **Conclusion**

In view of the above Remarks, it is believed that the claims clearly distinguish over the patents provided by the Examiner either alone or in combination. In view of this, reconsideration of the rejection and allowance of all the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse, Reg. No. 27,295

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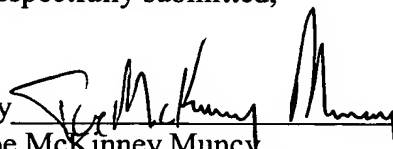
Docket No.: 4014-0170P

at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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